

SENATE AGRICULTURE
EXHIBIT NO. 1
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BILL NO. HB 309

James H. Goetz
Brian K. Gallik
Robert K. Baldwin
J. Devlan Geddes
Trent M. Gardner
Bonnie L. Jarrett
Jim Barr Coleman
Benjamin J. Alke
Zachary K. Strong

GOETZ, GALLIK & BALDWIN, P.C.

Attorneys at Law
35 North Grand 59715
P.O. Box 6580
Bozeman, Montana 59771-6580

Telephone
(406) 587-0618
Facsimile
(406) 587-5144
goetzlawfirm@goetzlawfirm.com

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Agriculture, Livestock and Irrigation Committee
Montana Senate
State Capitol
P. O. Box 201201
Helena, MT 59601

Re: HB 309

Dear Members of the Committee:

I am a Board Member of the Madison River Foundation, and I have been asked to write a letter commenting on HB 309 on behalf of the Board. Also, I was the attorney in the mid-'80s for the Montana Coalition for Stream Access, and handled the two seminal cases on stream access, *Montana Coalition for Stream Access v. Curran*, 682 P.2d 163 (1984) (Dearborn River); and *Montana Coalition for Stream Access v. Hildreth*, 684 P.2d 1088 (1984) (Beaverhead River). Those cases established that the waters in Montana are held in trust for the public, including appropriaters and recreationists.

I was also active in the efforts of the various parties, including the recreational groups and the landowners/agricultural groups, to develop suitable implementing legislation following those two decisions. As you know, that legislation culminated in the passage of the Montana Stream Access Law.

Well before that, however, I had wonderful experiences as a kid in the '50s growing up in Ennis, and floating the Madison in my father's beat up army surplus raft. As a high school kid I even "guided" in the days before licensing – my brother and I were paid \$10 to float an accomplished Denver fly fisherman from Varney to Ennis. All of this happened amicably and without any angler/landowner confrontations.

Things, of course, have changed, but there is no reason why landowners and recreationists cannot continue to get along as they did then. Indeed, it is my impression the Stream Access Law has worked well. It protects the rights of river users, but also still protects the undeniably important property rights of the landowners. Indeed, this has served as a model for other states.